

CHAPTER Env-Wt 100 DEFINITIONS; ACCESS TO RECORDS

Statutory Authority: RSA 482-A:11, I

PART Env-Wt 101 STATUTORY AND OTHER DEFINITIONS INCORPORATED

Env-Wt 101.01 Statutory Definitions. When used in these rules, the terms listed in table 101-1, below, shall have the meaning assigned by the statute identified, as reprinted in Appendix C:

Table 101-1: Statutory Definitions

Term	Statute
Boat slip	RSA 482-A:2, VIII
Certified wetland scientist	RSA 310-A:76, II-a
Commissioner	RSA 482-A:2, I
Department	RSA 482-A:2, I-b
Designated river	RSA 483:4, VIII
Exotic aquatic weeds	RSA 487:16, II
Local governing body	RSA 672:6
Local legislative body	RSA 672:8
Mean high tide	RSA 482-A:2, IV
Mooring as a noun	RSA 270:59, III
Municipality	RSA 482-A:2, V
Person	RSA 482-A:2, VI
River corridor	RSA 483:4, XVIII
Sand dune	RSA 482-A:2, VII
Structure	RSA 482-A:2, IX
Surface waters of the state	RSA 485-A:2, XIV
Wetlands	RSA 482-A:2, X
Wetland functions	RSA 482-A:2, XI

Env-Wt 101.02 Definitions Relating to Coastal Lands and Tidal Waters. Terms in subtitle Env-Wt relating directly to coastal lands and tidal waters that are not defined in statute shall have the meanings specified in Env-Wt 602.

PART Env-Wt 102 DEFINITIONS: A TO L

Env-Wt 102.01 “100-year floodplain” means those areas identified as a 100-year floodplain on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.

Env-Wt 102.02 “Abandoned” means a structure has not been maintained for 5 years in a functional and intact condition for its original intended use.

Env-Wt 102.03 “Abutter” means any person who holds title to abutting property or who owns flowage rights on abutting property.

Env-Wt 102.04 “Abutting property” means any property immediately contiguous to the property on which a project has occurred or is proposed. The term does not include any property that is separated by a public road or waterway from the property on which a project is proposed, or that is more than ¼-mile from the limits of the proposed work. If an abutting property is owned in whole or in part by the person who undertook the work or is proposing to undertake the work or is necessary to meet a frontage requirement, the term includes the the next contiguous property, subject to the ¼-mile limitation.

Env-Wt 102.05 “Accessory docking structure” means a structure that is supplemental to a docking structure that assists in securing watercraft or protecting the docking structure or watercraft, such as, for example, a canopy, dolphin, ice cluster, personal watercraft lift, piling, or watercraft lift.

Env-Wt 102.06 “Active man-made pond” means a man-made pond that is necessary for or incidental to a preexisting or ongoing bona fide operation that has been maintained in an intact and functional condition for its original intended use. The term includes but is not limited to agricultural ponds, ponds to provide water for fire-fighting, aggregate wash ponds, and stormwater detention basins.

Env-Wt 102.07 “Administratively complete” means that the application or notification package contains all items and information required by the applicable provisions in Env-Wt 300.

Env-Wt 102.08 “After-the-fact application” means an application for a permit or other approval under RSA 482-A that is filed after work on the project covered by the application has been started or is complete.

Env-Wt 102.09 “After-the-fact permit” means a permit or other approval issued based on an after-the-fact application.

Env-Wt 102.10 “Applicant” means a person having a legally-recognized interest in the land on which work in a jurisdictional area has been undertaken or is proposed to be undertaken that is sufficient for the person to have, or to obtain, an enforceable proprietary interest in the land and legally proceed with the project if the appropriate approval is issued, who has applied for a permit, permit modification, waiver, or other approval pursuant to subtitle Env-Wt and in whose name the permit will be issued if the application is approved.

Env-Wt 102.11 “Authorized agent” means the individual who has been legally authorized by an applicant to represent the applicant’s interests in connection with an application or other request.

Env-Wt 102.12 “Avoidance” means not impacting jurisdictional areas if there is a practicable alternative.

Env-Wt 102.13 “Avoidance, minimization, mitigation” means the 3-step sequence an applicant must follow to eliminate adverse impacts to jurisdictional areas to the maximum extent practical.

Env-Wt 102.14 “Bank” means the transitional slope adjacent to the ordinary high water mark of a surface water or wetland, the upper limit of which is usually defined by a break in slope at the top of a stream channel or shore for a surface water body, or a line delineated in accordance with Env-Wt 400 that indicates a change from wetland to upland for a wetland. The term includes “shoreline”.

Env-Wt 102.15 “Bank vegetative cover” means any woody and non-woody vegetation covering the river banks.

Env-Wt 102.16 “Beach” means an area adjacent to a surface water consisting of sand, gravel, or cobble, that extends from adjacent upland or wetland to or into the surface water.

Env-Wt 102.17 “Bioengineered bank stabilization” means a design method that uses live vegetation, woody material, or geotextile matting as primary components to achieve bank stabilization. The term includes soft vegetative stabilization and bioengineered stabilization.

Env-Wt 102.18 “Boardwalk” means an elevated walkway designed for use by pedestrians or non-motorized vehicles, or both, to allow public access over wetlands from upland to upland or from upland to navigable frontage.

Env-Wt 102.19 “Boathouse” means a docking structure having a permanent roof covering one or more boat slips, that may have permanent or removable sidewalls.

Env-Wt 102.20 “Bog” means a wetland distinguished by:

- (a) Poorly drained, acidic soil and water;
- (b) An accumulation of decaying plant material and peat; and
- (c) Characteristic vegetation such as stunted evergreen trees, shrubs, sedges, heaths, and sphagnum moss.

Env-Wt 102.21 “Breakwater” means a structure extending from near the shore into a surface water that is designed as a solid structure resting on the bed of the surface water to protect sections of shoreline, docking structures, anchorage areas, or navigational channels from deposition of sediment, erosion, or other damage from waves or currents.

Env-Wt 102.22 “Bulkhead” means a retaining wall built along a waterfront to contain fill.

Env-Wt 102.23 “Canopy” means a seasonal structure having a roof that is not designed or constructed to withstand an average snow load for the location in which it is installed and that does not have side walls, that is erected to shelter watercraft during the boating season.

Env-Wt 102.24 “CAT1 project” means a project that, by virtue of its size and nature as described in Env-Wt 400 through Env-Wt 600 and Env-Wt 900, as applicable, is likely to have a negligible impact on jurisdictional areas by itself or in the aggregate so long as measures are employed to protect the environment, or a project for which design and implementation is supervised by a public resource agency. The term includes minimum impact project.

Env-Wt 102.25 “CAT2 project” means a project that, by virtue of its size and nature as described in Env-Wt 400 through Env-Wt 600 and Env-Wt 900, as applicable, has the potential to cause more than a negligible impact on jurisdictional areas unless adequate measures are employed to protect the environment. The term includes minor project and minor impact project.

Env-Wt 102.26 “CAT3 project” means a project that, by virtue of its size and nature as described in Env-Wt 400 through Env-Wt 600 and Env-Wt 900, as applicable, has the potential to significantly impact jurisdictional areas unless adequate measures are employed to protect the environment. The term includes major project and major impact project.

Env-Wt 102.27 “Commercial docking structure” means a docking structure that is allowed by its owner(s) to be used by others with the expectation that compensation or other consideration will be provided to the owner(s) of the structure. The term does not include a docking structure that is used coincidentally with the use of real property to which the structure is appurtenant pursuant to the lease, sale, rental, or other temporary or permanent conveyance of an interest in the real property.

Env-Wt 102.28 “Compensatory mitigation” means activities or projects designed to offset the unavoidable permanent impacts of a project through the preservation of land or the restoration, enhancement, or creation of a wetland, by replacing or partially replacing wetlands functions and values lost due to the project.

Env-Wt 102.29 “Conservation area” means an area of land legally protected so as to restrict the future use or development of the property in perpetuity, such as by a conservation easement.

Env-Wt 102.30 “Conservation commission” means a municipal body established under RSA 36-A with statutory authority under RSA 482-A to submit comments on applications to the department.

Env-Wt 102.31 “Conservation project” means a project to access, maintain, or improve a conservation area.

Env-Wt 102.32 “Construction activity” means any activity that creates, constructs, installs, erects, or otherwise places any structure, as defined by RSA 482-A:2, IX, in a jurisdictional area.

Env-Wt 102.33 “Continued agricultural use” means that a wetland has been used as cropland or pasture with sufficient frequency, and sufficient recentness, that the land has not reverted to a scrub-shrub wetland, emergent marsh, or forested wetland.

Env-Wt 102.34 “Corduoy road” means logs, limbs or branches placed to provide support for logging equipment crossing a wet area which has no standing water and no defined channels.

Env-Wt 102.35 “Crib” means an enclosure or framework of durable material, such as timber or prefabricated concrete, that is securely fastened together and filled with an inert ballast, such as stone, that typically is used to support a docking structure in the water.

Env-Wt 102.36 “Cropland” means land that is used to grow plant species adapted for harvest, alone or in rotation with grasses and legumes. The term includes areas dedicated to vegetables, grain, hay, pasture, fodder, sod, nursery stock, orchards, and similar products.

Env-Wt 102.37 “DataCheck tool” means https://www2.des.state.nh.us/nhb_datacheck/.

Env-Wt 102.38 “Deck” means, depending on context, either:

(a) The horizontal component of a docking structure that is lakeward of the normal high water line on which people can walk; or

(b) A structure that does not extend out over the water that is constructed along a shoreline in place of, and serving the same function as, a beach.

Env-Wt 102.39 “Deck area” means the total surface area of a deck that is suitable for supporting the intended activity.

Env-Wt 102.40 “Defined channel” means an area in or on the ground that exhibits clear evidence of the passage of water. The term includes but is not limited to bedrock channels, gravel beds, sand beds, and silt beds.

Env-Wt 102.41 “Design fetch” means the average of at least 11 radials evenly distributed across a 30 degree arc.

Env-Wt 102.42 “Designated river corridor” means the river corridor of a designated river.

Env-Wt 102.43 “Director” means the director of the division of water within the department.

Env-Wt 102.44 “Docking structure” means any structure or combination of structures that can be used to secure watercraft or to load and unload passengers, freight, or other items, or any combination thereof, whether or not any part of the structure is in or over the water. The term includes dock, pier, wharf, finger, and pile.

Env-Wt 102.45 “Dock” as a verb means to secure watercraft adjacent to a structure.

Env-Wt 102.46 “Dolphin” means a permanent rigid structure installed on the bottom of a surface water or in or on an adjacent beach or bank, in order to assist in securing watercraft or to protect an area from ice damage.

Env-Wt 102.47 “Drainage swale” means a shallow man-made trough through or in which stormwater runoff flows, where the flows are insufficient to create a defined channel or maintain wetlands vegetation.

Env-Wt 102.48 “Dredge” means to dig, excavate, or otherwise disturb the contour or integrity of the bank or bed of a wetland, surface water, or other jurisdictional area.

Env-Wt 102.49 “Dredged material” means any organic or inorganic substance, including but not limited to decaying vegetation, aquatic weeds, sediment, gravel, and rock, that is removed as the result of dredging.

Env-Wt 102.50 “Dredging activity” means any activity that removes, compresses, or ruts any organic or inorganic substance from or in any jurisdictional area, regardless of whether the material is of natural or human origins.

Env-Wt 102.51 “Duly-established 100-foot buffer” means the buffer recognized in RSA 482-A:11, IV for prime wetlands designated on or after September 11, 2009 but before August 17, 2012.

Env-Wt 102.52 “Ephemeral stream” means a watercourse that is located above the water table year-round and is not fed by groundwater, such that runoff from rainfall and snowmelt is the primary source of

stream flow and so the stream has flowing water only during, and for a short duration after, precipitation or spring thaw events.

Env-Wt 102.53 “Erosion control” means the use of practices such as those specified in Env-Wq 1506 or Env-Wq 1508 to contain soil particles and to prevent them from being displaced or washed down slopes by rainfall or run-off.

Env-Wt 102.54 “Excavate” means to dig out and remove material to form a cavity in, or to otherwise remove material from, a jurisdictional area.

Env-Wt 102.55 “Existing legal structure” means a structure that:

- (a) Is a grandfathered structure; or
- (b) Was constructed pursuant to a permit or grant in right issued under RSA 482-A or any predecessor statute and conforms to that permit or grant in right, as applicable.

Env-Wt 102.56 “Expedited permit (EXP)” means an authorization to proceed with work in a jurisdictional area that is conferred by the department and that is not a standard permit or a lower scrutiny approval.

Env-Wt 102.57 “Erosional features caused by proximate human activity” as used in RSA 482-A:3, IV(b) means scouring caused by stormwater runoff from developed areas. The term includes gullies, rills and other ephemeral features that do not meet the definition of a watercourse and that are characterized by flows that are low volume, infrequent, and of short duration.

Env-Wt 102.58 “Fetch” means the length of uninterrupted water surface over which the wind blows in a constant direction.

Env-Wt 102.59 “Fill” as a noun means any rock, soil, gravel, sand, or other natural or man-made material that has been deposited or caused to be deposited by human activity.

Env-Wt 102.60 “Fill” as a verb means to place or deposit, or cause or allow to be placed or deposited, materials in or on a wetland, surface water, or bank, or otherwise in or on a jurisdictional area.

Env-Wt 102.61 “Filling activity” means any activity that places any fill into any jurisdictional area.

Env-Wt 102.62 “Flats” means “tidal flats” as defined in Env-Wt 602.

Env-Wt 102.63 “Float” means a component of a docking structure that is supported by buoyancy devices. The term includes jet-ski floats.

Env-Wt 102.64 “Flow control structure” means an in-stream structure that is designed and installed to limited lateral bank migration and reduce bank erosion by diverting high-velocity flow threads, and their hydrodynamic forces, directionally away from the banks of a watercourse. The term includes but is not limited to cross vanes, hook vanes, rock vanes, weirs, submerged vanes, stream barbs, spurs, and constructed riffles.

Env-Wt 102.65 “Forest management activities” means activities necessary for forest management as defined in RSA 227-G:2, IX, including but not limited to extracting timber, planting and replanting of various species, and cutting roads and pathways through forests, provided such activities are undertaken in compliance with applicable statutes and rules, including RSA 227-J, and best management practices.

Env-Wt 102.66 “Functional assessment” means an evaluation of a wetland or other aquatic resource to determine its functions and values.

Env-Wt 102.67 “Grandfathered structure” means a docking structure that:

- (a) Was in place before permit jurisdiction, as defined in Env-Wt 102, took effect;
- (b) Has either remained unaltered in location, size and configuration or is a replacement structure as defined in Env-Wt 102;

(c) Has not been abandoned as defined herein;

(d) Is consistent with the public's right to reasonable use of public waters, as established in New Hampshire case law; and

(e) Is not built on land created by the unauthorized filling of public waters.

Env-Wt 102.68 "Groin" means a rigid structure built out from a shore to protect the shore from erosion, to trap sand, or to direct a current for scouring a channel.

Env-Wt 102.69 "Hard bank stabilization components" means materials such as rocks or walls that are used to fix rivers in place, typically applied in unnatural rigid channel designs to protect infrastructure, particularly after damaging floods.

Env-Wt 102.70 "Hydric soil" means soil that is saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers.

Env-Wt 101.71 "Hydrophyte" means a plant adapted for life in water or saturated soils.

Env-Wt 102.72 "Hydrologic integrity" means functions a wetland performs to attenuate runoff and floodwater flow by retaining water and allowing it to recharge groundwater or discharge to surface waters more slowly.

Env-Wt 102.73 "Ice cluster" means 2 or more pilings installed closely together near the lakeward end of a docking structure to protect the structure against damage from ice.

Env-Wt 102.74 "Intermittent stream" means a watercourse that is fed by groundwater but is not in the groundwater table throughout the year, with runoff from rainfall and snowmelt as a supplemental source of water for flow, such that it typically does not have flowing water during dry portions of the year.

Env-Wt 102.75 "Jetty" means a breakwater. The term is typically used to refer to a tidal structure.

Env-Wt 102.76 "Jurisdiction" means the regulatory authority conferred by RSA 482-A.

Env-Wt 102.77 "Jurisdictional area" means an area that is subject to regulation under RSA 482-A, as described therein.

Env-Wt 102.78 "Licensed professional engineer" means an individual who has been licensed under RSA 310-A:11 to engage in the practice of engineering in New Hampshire.

Env-Wt 102.79 "Limit of disturbance" means the outer edge of all areas disturbed or proposed to be disturbed by a project, including but not limited to areas from which vegetation has been or will be removed and the footprints of buildings, parking lots, roadways, stockpiles, storage areas, and all areas to be graded, dredged, or filled, or any combination thereof.

Env-Wt 102.80 "Located adjacent to a structure to which a watercraft may be secured" means, for purposes of the definition of boat slip, that 50% or more of the length of the slip is along the length of the structure that causes the water volume to be a boat slip.

Env-Wt 102.81 "Low impact project" means a project that, by virtue of its size and nature, is likely to have a negligible impact on jurisdictional areas by itself or in the aggregate, so long as measures are employed to protect the environment. The term includes minimum impact project.

Env-Wt 102.82 "Lower scrutiny approval (LSA)" means an authorization to proceed with work in a jurisdictional area that is conferred by the department and is not a standard permit or an expedited permit. The term includes permits by notification authorized by RSA 482-A:11, VI-a and registrations authorized by RSA 482-A:11, VII.

PART Env-Wt 103 DEFINITIONS: M TO Z

Env-Wt 103.01 “Maintenance” means routine activities undertaken regularly so that the target of the activity will continue to serve its intended purpose.

Env-Wt 103.02 “Major docking system” means a docking structure that :

- (a) Is a commercial docking structure, a public docking structure, or a docking structure at a marina;
- (b) Covers a surface area of more than 700 square feet excluding canopies and lifts;
- (c) Provides 5 or more boatslips;
- (d) Is located in a special resource area as defined in Env-Wt 103; or
- (e) Requires a waiver of one or more requirements in order to be approved.

Env-Wt 103.03 “Marina” means a waterfront facility whose principal function is to provide watercraft-related services such as the securing, launching, storing, fueling, servicing, or repairing of watercraft, or any combination thereof, whether such services are available to the public or only to members of an organization or association.

Env-Wt 103.04 “Marsh” means a wetland that is distinguished by the absence of trees and shrubs and dominated by soft-stemmed herbaceous plants such as grasses, reeds, and sedges, where the water table is at or above the surface throughout the year, but can fluctuate seasonally. The term includes fresh water marshes and tidal marshes.

Env-Wt 103.05 “Minimization” means the reduction of adverse impacts that remain after all practicable measures have been taken to avoid adverse impacts to jurisdictional areas.

Env-Wt 103.06 “Minimization measures” means design techniques that address unavoidable adverse impacts based on the scale, location, and design of the proposed project, the functions and values of the impacted resources, and practicability.

Env-Wt 103.07 “Minimum impact project” means a low impact or CAT1 project.

Env-Wt 103.08 “Minor project” means a CAT2 project.

Env-Wt 103.09 “Navigable frontage” means, for non-tidal waters, the frontage that can be accessed by a boat having at least a 6 foot beam and 2 foot draft at normal high water.

Env-Wt 103.10 “Need” means the need for proposed impacts to jurisdictional areas, as determined pursuant to Env-Wt 313.

Env-Wt 103.11 “Nontidal wetland” means a wetland that is not subject to periodic inundation by tidal waters.

Env-Wt 103.12 “Normal agricultural operations” for purposes of subtitle Env-Wt means those activities that are customary to, and necessary to sustain, an agricultural operation as described in RSA 21:34-a, II.

Env-Wt 103.13 “Normal high water line” for lakes or ponds means the full lake elevation.

Env-Wt 103.14 “Notifier” means the person submitting a notification for an LSA.

Env-Wt 103.15 “Public infrastructure” means public roads, facilities, and constructed landscape that is open to, and maintained to be used by, the general public.

Env-Wt 103.16 “Ordinary high water mark” means the line on the bank of a surface water body or watercourse established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial

vegetation, the presence of litter and debris, or other appropriate factors that account for the characteristics of the surrounding areas.

Env-Wt 103.17 “Perennial stream” means a watercourse that is in the groundwater table for most of the year and so has groundwater as its primary source of water for stream flow, with runoff from rainfall and snowmelt as a supplemental source of water, so that it contains flowing water year-round during a typical year.

Env-Wt 103.18 “Permanent dock” means a docking structure in which the docking structure or its supports, or both, are designed to remain in place throughout the year.

Env-Wt 103.19 “Permit action” means approval, approval with conditions, partial approval, or denial of an application for a permit pursuant to RSA 482-A.

Env-Wt 103.20 “Permit jurisdiction” means the regulatory authority conferred on the department or its predecessor agencies under RSA 482-A or any predecessor statutes, as applied to specific activities, as follows:

- (a) For projects in or adjacent to tidal wetlands, any project occurring after June 22, 1967;
- (b) For projects in or adjacent to non-tidal wetlands, any project occurring after July 2, 1969;
- (c) For seasonal structures in tidal or non-tidal waters, any project occurring after September 4, 1978; and
- (d) For projects in a duly-established 100-foot buffer, the date of designation of the associated prime wetlands.

Env-Wt 103.21 “Pier” means a docking structure.

Env-Wt 103.22 “Pile” means a long, slender column of timber, steel, concrete, stone, or other rigid material driven or jetted into a beach or bank or into the bottom of a surface water. The term includes piling.

Env-Wt 103.23 “Practicable” means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Env-Wt 103.24 “Preservation” means the permanent protection of wetland and upland areas using legal and physical mechanisms so that the resource remains in a natural or undeveloped condition.

Env-Wt 103.25 “Primary contractor” means the person hired or otherwise engaged by a permit holder to do the work authorized by a permit. If the permit holder hires more than one person to do the work, the term means the person who is responsible for the overall completion of the work authorized by the permit.

Env-Wt 103.26 “Primary vernal pool indicators” means the presence or physical evidence of breeding by marbled salamander, wood frog, spotted salamander, jefferson-blue spotted salamander complex, or fairy shrimp.

Env-Wt 103.27 “Private docking structure” means a docking structure that is maintained for the personal use of the owner of the single-family residence on the subject property and the owner’s invitees, that is not a commercial docking structure, a public docking structure, or a docking structure at a marina.

Env-Wt 103.28 “Protected species or habitat” means:

- (a) Any threatened wildlife species as defined in RSA 212-A:2, V, any endangered wildlife species as defined in RSA 212-A:2, IV, or any habitat of such species which is determined to be critical by the executive director of the NH department of fish and game (NHF&G) under RSA 212-A:9, III; and
- (b) Any protected plant species as defined in RSA 217-A:3, VIII, or any exemplary natural community as identified by the New Hampshire department of natural and cultural resources, division of forest and lands, natural heritage bureau (NHB).

Env-Wt 103.29 “Public docking structure” means a docking structure that is owned by a political subdivision or a state or federal agency and is available for use by the general public. The term includes

docking structures that are allowed to be used only by residents of the governmental unit that owns the structure as well as docking structures that are allowed to be used by any individual or group, with or without compensation or other consideration to the owner.

Env-Wt 103.30 “Public hearing” means a public non-adjudicative proceeding conducted for the purpose of receiving input from the public on a proposed project.

Env-Wt 103.31 “Public infrastructure” means public roads, facilities, and constructed landscape that is open to and maintained for the use of the general public.

Env-Wt 103.32 “Public project” means a project undertaken by or in partnership with a federal, state, or local authority for the purpose of constructing public infrastructure or a public docking structure.

Env-Wt 103.33 “Public trust surface waters” means surface waters of the state as defined in RSA 485-A:2, XIV that are held in trust by the state of New Hampshire for the public.

Env-Wt 103.34 “Reconfiguration” means the redesign of an existing legal structure within the same overall outside dimensions and without increasing the square footage of the surface area of the structure. (we permit reconfiguration of walls, culverts...

Env-Wt 103.35 “Reconstruction” when applied to any structure except a stream crossing that is subject to Env-Wt 900 means the replacement of all components of an existing legal docking structure.

Env-Wt 103.36 “Reference line” means:

(a) For a surface water that is subject to RSA 483-B, the reference line as established under RSA 483-B:4, XVII; or

(b) For a surface water that is not subject to RSA 483-B, the line that would have constituted the reference line as established under RSA 483-B:4, XVII if RSA 483-B applied.

Env-Wt 103.37 “Rehabilitation” means installation of new structural components in or on an existing legal structure to allow the structure to remain in place.

Env-Wt 103.38 “Repair” when applied to any structure except a stream crossing that is subject to Env-Wt 900 means to fix or replace only those components of an existing legal structure that are worn, broken, or unsound so as to restore the structure to its original purpose.

Env-Wt 103.39 “Replacement structure” means a new structure that takes the place of an existing legal structure, that is the same kind of structure in the same or a more conforming location, having the same or smaller surface area and, if a docking structure, the same number or fewer boatslips, such that in all material aspects, the new structure is no more impacting to the environment or abutting properties than the original structure.

Env-Wt 103.40 “Retaining wall” means a structure constructed to support a bank, contain fill, or prevent erosion.

Env-Wt 103.41 “Revetment” means a sloped facing of layered stone, concrete, or other hard material built to protect a bank or embankments by dissipating wave energy.

Env-Wt 103.42 “Rip-rap” means cobble-sized and boulder-sized rocks placed on a bank to prevent erosion.

Env-Wt 103.43 “Roadway” means a legally existing structure that is designed, constructed, or improved to provide and support safe passage for public or private vehicular traffic.

Env-Wt 103.44 “Rocker box” means a mechanical device used to separate gold and other minerals from lighter sediments.

Env-Wt 103.45 “Routine roadway/railway maintenance activities” means activities designed and intended to maintain existing roadways or railways that are included in the “Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire” manual published by the New Hampshire department of transportation, dated 2017 (“Routine Roadway Maintenance BMPs”).

Env-Wt 103.46 “Scrub shrub wetland” means a wetland dominated by woody vegetation less than 20 feet tall, such as true shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

Env-Wt 103.47 “Seasonal dock” means a docking structure that is designed and constructed such that the structure and all associated supports can be completely removed from the surface water and its bed during the non-boating season. The term includes but is not limited to pipe docks and floating docks.

Env-Wt 103.48 “Secondary vernal pool indicators” means physical evidence used by wildlife biologists or certified wetlands scientists who are familiar with vernal pool habitats as evidence of the presence of a vernal pool, if primary vernal pool indicators are absent and other vernal pool characteristics suggest vernal pool habitat. Secondary vernal pool indicators include those identified in the third edition of “Identifying and Documenting Vernal Pools in New Hampshire” published by the N.H. fish and game department.

Env-Wt 103.49 “Sedimentation controls” means silt fences, hay bales, and other methods described in Env-Wq 1506 that are used to trap water-borne sediment and provide protection against erosion until disturbed terrain, including the bottom of surface waters, is stabilized.

Env-Wt 103.50 “Self-mitigating” means that the environmental or public health benefits provided by a proposed project will be equal to or greater than the adverse impacts to jurisdictional areas caused by the proposed project.

Env-Wt 103.51 “Shoal” means a portion of a water body where the bottom is usually submerged but has insufficient depth to allow for safe navigation for some percentage of watercraft that could reasonably be expected to use the water body.

Env-Wt 103.52 “Shoreline frontage” means the average of the natural frontage and the length of a straight line drawn between the points where the side property lines intersect the reference line.

Env-Wt 103.53 “Significant environmental impact” means that a proposed project is classified as a major project and the natural resources to be impacted by the proposed project are an important component of a jurisdictional ecosystem.

Env-Wt 103.54 “Significant function wetland” means a wetland:

- (a) Having moderate to high characteristics as determined by a recognized and scientifically-defensible functional wetland assessment method or best available science; or
- (b) Providing significant public benefit due to hydrologic integrity, water quality, or habitat functions, or any combination thereof.

Env-Wt 103.55 “Silt fence” means a barrier erected to allow water to flow through while preventing the passage of silt, sand, or fines, or any combination thereof.

Env-Wt 103.56 “Sluice” means an inclined trough to conduct water to a rocker box for separating gold and other minerals from lighter sediments.

Env-Wt 103.57 “Soft bank stabilization components” means deformable materials used in soft vegetative or bioengineered bank stabilization. The term includes but is not limited to coconut fiber rolls, jute mats, live plantings, and logs.

Env-Wt 103.58 “Special resource area” means a jurisdictional area that:

- (a) Is an exemplary natural community identified by the department of natural and cultural resources, natural heritage bureau (NHB);
- (b) Has documented occurrences of rare or protected species or habitat for such species;
- (c) Is a marsh with an area of one acre or larger;
- (d) Is a scrub shrub wetland on very poorly drained soils,
- (e) Is peatlands or bogs;
- (f) Is flood plain wetlands on alluvial very poorly drained soils;
- (g) Is a designated prime wetland or a duly established 100-foot buffer zone;
- (h) Is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone;
- (i) Is a tier 3 stream containing a cold water fishery; or
- (j) Is any combination of (a) through (i), above.

Env-Wt 103.59 “Standard permit” means a permit issued under RSA 482-A based on an application filed pursuant to Env-Wt 311 or equivalent predecessor rules.

Env-Wt 103.60 “State general permits (SGPs)” means the general permits issued by the U.S. Army Corps of Engineers (US ACE) to authorize projects in New Hampshire that:

- (a) Meet the conditions stated therein; and
- (b) Do not meet the US ACE’s criteria for individual permitting.

Env-Wt 103.61 “Stream crossing” means a structure placed within a watercourse or on its associated upland or wetland approaches, or both, that is intended to provide human, animal, or vehicular passage over the watercourse.

Env-Wt 103.62 “Stream restoration” means the process of converting an unstable, altered, or degraded watercourse, including adjacent riparian zone and flood-prone areas, to a natural condition as found in reaches of the watercourse that have not been altered by human disturbances.

Env-Wt 103.63 “Subject property” means:

- (a) For projects in surface water for which any kind of permit is required, the parcel(s) of land adjacent to and associated with the area in which the project will occur or has occurred; or
- (b) For all other projects for which any kind of permit is required, the parcel(s) of land on which the project will occur or has occurred.

Env-Wt 103.64 “Substantial public interest” means the department has been contacted by individuals in the community or region where a project is proposed, who have voiced concerns that the project would impact jurisdictional areas having special value from a local, regional, or state perspective and raising issues such as those identified as adverse consequences in RSA 482-A:1.

Env-Wt 103.65 “Surface water” means those portions of waters of the state that have standing or flowing water at or on the surface of the ground. The term includes but is not limited to rivers, streams, lakes, ponds, and tidal waters.

Env-Wt 103.66 “Swamp” means a wetland that is dominated by trees or shrubs, or a combination thereof.

Env-Wt 103.67 “Temporary impacts” means adverse impacts that will be reversed when the authorized work has been completed. The term includes but is not limited to ruts caused by heavy machinery that are smoothed when the work is completed and the installation and subsequent removal of swamp mats, construction mats, corduroy roads, geotextile fabric, or other erosion or sediment control practices.

Env-Wt 103.68 “Top of bank” means the first break in slope above the ordinary high water mark of a surface water or wetland, usually identified by physical characteristics such as a change in topography or a change in vegetation type.

Env-Wt 103.69 “Trail activities” means activities necessary for public-access trail construction and management, including but not limited to cutting roads and pathways through forests, provided such activities are undertaken in compliance with RSA 482-A:3, XII(a) by conforming to the Best Management Practices for Erosion Control During Trail Maintenance and Construction published by the department of resources and economic development (Trail BMPs) and filing the required notice.

Env-Wt 103.70 “Turbidity curtain” means a silt fence designed to be used to surround a project being undertaken in a surface water, to prevent turbidity from the project from entering the surface water that is outside the enclosure.

Env-Wt 103.71 “Upland” means an area of land that is not a wetland.

Env-Wt 103.72 “Upland buffer” means an area of upland that is contiguous to a jurisdictional area and that contributes to the functions and values of the natural resources in that area.

Env-Wt 103.73 “Vernal pool” means a surface water or wetland, including an area intentionally created for purposes of compensatory mitigation, that provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and that:

- (a) Is not the result of on-going anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to:
 - (1) Gravel pit operations in a pit that has been mined at least every other year; and
 - (2) Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules; and
- (b) Typically has the following characteristics:
 - (1) Cycles annually from flooded to dry conditions, although the hydroperiod, size, and shape of the pool might vary from year to year;
 - (2) Forms in a shallow depression or basin;
 - (3) Has no permanently flowing outlet;
 - (4) Holds water for at least 2 continuous months following spring ice-out;
 - (5) Lacks a viable fish population; and
 - (6) Supports one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.

Env-Wt 103.74 “Water quality control measures” means methods, practices, and devices that are designed and implemented to prevent or minimize erosion, siltation, or turbidity, or any combination thereof. The term includes but is not limited to phased construction, vegetated filter strips, geotextile silt fences, stormwater detention and infiltration systems, sediment detention basins, and any other method, practice, or device identified in Env-Wq 1506 through Env-Wq 1508.

Env-Wt 103.75 “Watercourse” means any surface water that:

- (a) Develops and maintains a defined scoured channel, with evidence of sediment transport, that:
 - (1) Is greater than 75 feet in length; or
 - (2) Is of any length and connected to another jurisdictional area at one or both ends; and
- (b) Is not a drainage swale.

Env-Wt 103.76 “Watershed” means a geographical area in which all water drains to a given stream, lake, wetland, estuary, or ocean.

Env-Wt 103.77 “Wave attenuator” means a structure suspended from the underside of a docking structure for the purpose of dampening wave action.

Env-Wt 103.78 “Weephole” means a small opening that allows drainage from or through a retaining structure so as to prevent frost or ice damage to the structure.

Env-Wt 103.79 “Wet meadow” means an herb-dominated area typically with non-woody vegetation less than 3 feet in height, saturated for long periods during the growing season, but seldom flooded. Wet meadows develop on predominantly poorly drained soils as defined in Env-Wq 1000.

Env-Wt 103.80 “Wetland creation” means the transformation of upland to wetlands at a site where the upland was not created by human activity such as by filling or water diversion.

Env-Wt 103.81 “Wetland enhancement” means the manipulation of the physical, chemical, or biological characteristics, or any combination thereof, of an aquatic resource to heighten, intensify, or improve one or more specific aquatic resource functions. Wetlands enhancement results in the gain of selected aquatic resource functions, but does not result in a gain in aquatic resource area.

Env-Wt 103.82 “Wetland restoration” means the re-establishment of a filled, dredged, drained, or otherwise disturbed or disrupted wetlands to its historic condition, so as to restore lost functions to the greatest extent practicable, by removing fill, restoring hydrology, reestablishing native wetlands vegetation, or such other means as are necessary.

Env-Wt 103.83 “Wetlands rules” means all rules in subtitle Env-Wt.

Env-Wt 103.84 “Wharf” means a docking structure.

PART Env-Wt 104 MAINTENANCE OF AND ACCESS TO FILES

Env-Wt 104.01 Retention of Files.

(a) The department shall retain files of applications for standard permits under Env-Wt 311 for:

(1) Not less than 4 years from the date of the final decision on the application if the application is denied, provided that if the denial is appealed, the file shall be maintained for at least 4 years from the final decision on appeal; and

(2) Not less than 10 years from the date of the final decision on the application if a permit is issued, provided that if the permit is appealed, the file shall be maintained for at least 10 years from the final decision on appeal.

(b) The department shall retain notices filed under Env-Wt 308.05 to activate an SPN for at least 4 years from the date of the SPN.

(c) The department shall retain registrations and notices filed under Env-Wt 309 for LSAs and applications filed under Env-Wt 310 for EXPs for at least 4 years from the date of the registration, notice, or decision on the application, as applicable.

Env-Wt 104.02 Access to Files.

(a) Any person may request to review one or more files of the department pertaining to the department’s activities under RSA 482-A during normal working hours.

(b) Upon receipt of a request to review a file pursuant to (a), above, the department shall proceed in accordance with RSA 91-A:4.

APPENDIX A: STATUTES IMPLEMENTED
[to be inserted]

APPENDIX B: INCORPORATED DOCUMENTS
[none in this chapter]

APPENDIX C: STATUTORY DEFINITIONS

482-A:2

I. “Commissioner” means the commissioner of environmental services.

I-b. “Department” means the department of environmental services.

IV. “Mean high tide” shall be determined according to the published tables and standards of the United States Coast and Geodetic Survey, adjusted to the locality from such tables.

V. “Municipality” shall include cities, towns, and village districts.

VI. “Person” shall mean any natural person, firm, partnership, association, corporation, company, organization or legal entity of any kind including municipal corporations, governmental departments and agencies, or their subdivisions.

VII. “Sand dune” shall mean a hill or ridge of sand piled up by the wind and commonly found on the seacoast.

VIII. “Boat slip” means:

(a) On water bodies over 10,000 acres, means a volume of water 25 feet long, 8 feet wide, and 3 feet deep as measured at normal high water and located adjacent to a structure to which a watercraft may be secured.

(b) On water bodies of 10,000 acres or less, a volume of water 20 feet long, 6 feet wide, and 3 feet deep as measured at normal high water mark and located adjacent to a structure to which a watercraft may be secured.

IX. “Structure” means, notwithstanding any other provision of law, something installed, erected, or constructed, but shall not include a bench, landing with dimensions no larger than 10 feet wide by 10 feet long, or stairs with a width not exceeding 6 feet, provided that such benches, landings, or stairs are installed, erected, or constructed without regrading or recontouring of the shoreline and are not over water. Structures include, but are not limited to, the following: fence, dock, breakwater, post, pile, building, bridge, culvert, and wall.

X. “Wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

XI. “Wetland functions” means the practical measurable values of wetlands. The 12 primary wetland functions are ecological integrity, wetland-dependent wildlife habitat, fish and aquatic life habitat, scenic quality, educational potential, wetland-based recreation, flood storage, groundwater recharge, sediment trapping, nutrient trapping/retention/transformation, shoreline anchoring, and noteworthiness.

RSA 483:4

XVIII. “River corridor” means the river and the land area located within a distance of 1,320 feet of the normal high water mark or to the landward extent of the 100 year floodplain as designated by the Federal Emergency Management Agency, whichever distance is larger.

485-A:2

XIV. “Surface waters of the state” means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

487:16

II. The term “exotic aquatic weeds” includes only those species of vascular aquatic plants which were not part of New Hampshire’s native aquatic flora before 1950. *Cabomba caroliniana* and *Myriophyllum heterophyllum* are examples of exotic aquatic weeds.

Other statutes

270:59, III. “Mooring” when used as a noun, means a mooring anchor, or other fixed object or stationary point, with or without a mooring buoy together with attached chains, cables, ropes, and pennants and related equipment used for the purpose of securing watercraft.

310-A:76, II-a “Certified wetland scientist” means a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified by RSA 310-A:84, II-a and II-b, is qualified to delineate wetland boundaries and to prepare wetland maps; to classify wetlands; to prepare wetland function and value assessments; to design wetland mitigation; to implement wetland mitigation; to monitor wetlands functions and values; and to prepare associated reports, all in accordance with standards for identification of wetlands adopted by the New Hampshire department of environmental services or the United States Army Corps of Engineers or their successors, and who has been duly certified by the board.

672:6 Local Governing Body. – “Local governing body” means, in addition to any other appropriate title:

- I. Board of selectmen in a town;
- II. City council or board of aldermen in a city;
- III. Village district commissioners in a village district; or
- IV. County commissioners in a county in which there are located unincorporated towns or unorganized places.

672:8 Local Legislative Body. – “Local legislative body” means one of the following basic forms of government utilized by a municipality:

- I. Council, whether city or town;
- II. Mayor--council;
- III. Mayor--board of aldermen;
- IV. Village district or precinct;
- V. Town meeting; or
- VI. County convention.